IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO. 579 OF 2005

Maharashtra State Cooperative Marketing Federation, Bombay & Anr.
vs.
M/s. Vallabhadas Bhagwandas & Com., Pusad & Ors

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
AUGUST 04, 2007.

Heard Shri Moharir, learned counsel for the appellants – original defendants.

The challenge is to the concurrent judgments delivered by the Courts below whereby the suit for recovery of amount and for damages has been decreed.

Shri Moharir, learned counsel has argued that the decree for amount of Rs. 94,923.50 ps. as damages granted by the trial Court and maintained by the appellate Court is clearly unsustainable because there is absolutely no proof of any loss or damages to the respondent – plaintiff and also about the quantum of calculation for such loss.

With his assistance, I have perused

both the judgments. The learned trial Court in paragraph 36 found that there was sale instance dated 15.6.1978 produced on record by the respondent – plaintiff which substantiate his contention that he could have earned profit of Rs.50/- per quintal had the entire cotton seed delivered to him. Accordingly, the trial Court has worked out the quantum of damages to Rs.94,923.50 ps. It has been maintained even by the appellate Court.

In these circumstances, I find that the settled finding on fact cannot be reopened in this Second Appeal. No substantial question of law arises. Second Appeal is dismissed. No order as to costs.

JUDGE

*GS.